



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 31 2012

THE ADMINISTRATOR

The Honorable Dan Malloy
Governor
State of Connecticut
210 Capitol Avenue
Hartford, CT 06106

The Honorable Martin O'Malley
Governor
State of Maryland
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Annapolis, MD 21401

The Honorable John Lynch
Governor
State of New Hampshire
Office of the Governor
25 Capitol Street, Room 212
Concord, NH 03301

The Honorable Andrew Cuomo
Governor
State of New York
State Capitol
Albany, NY 12224

The Honorable Lincoln Chafee
Governor
State of Rhode Island
State House
Providence, RI 02903

The Honorable Jack Markell
Governor
State of Delaware
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The Honorable Deval Patrick
Governor
Commonwealth of Massachusetts
State House
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The Honorable Christopher Christie
Governor
State of New Jersey
The State House
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Trenton, NJ 08625

The Honorable Tom Corbett
Governor
Commonwealth of Pennsylvania
Room 225
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Harrisburg, PA 17120

The Honorable Bob McDonnell
Governor
Commonwealth of Virginia
State Capitol
Third Floor
Richmond, VA 23219

The Honorable Vincent Gray
Mayor
District of Columbia
1350 Pennsylvania Avenue NW, Suite 316
Washington, DC 20004

The Honorable Robert Bentley
Governor
State of Alabama
State Capitol
600 Dexter Avenue
Montgomery, AL 36130

Honorable Nathan Deal
Governor
State of Georgia
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The Honorable Phil Bryant
Governor
State of Mississippi
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The Honorable Bev Perdue
Governor
State of North Carolina
Office of the Governor
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Raleigh, NC 27699

The Honorable Nikki R. Haley
Governor
State of South Carolina
1205 Pendleton Street
Columbia, SC 29201

The Honorable Bill Haslam
Governor
State of Tennessee
Tennessee State Capitol
Nashville, TN 37243

Re: October 2012 Fuel Waiver Concerning Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, Mississippi, Alabama, Georgia, Tennessee, South Carolina, North Carolina, and the District of Columbia

Dear Governors and Mayor Gray:

I have received requests for a waiver under the Clean Air Act (CAA) made by some of you or on your behalf to address a fuel supply emergency caused by Hurricane Sandy. As you know, regulations promulgated under the CAA require gasoline sold in certain areas of Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Virginia and the District of Columbia to meet reformulated gasoline (RFG) requirements (the "Designated RFG Covered Areas"). The RFG regulations at 40 C.F.R. § 80.78(a)(7) also prohibit any person from combining any reformulated gasoline blendstock for oxygenate blending with any other gasoline, blendstock, or oxygenate, unless certain conditions are met.

Widespread power outages and flooding caused by Hurricane Sandy have resulted in significant damage to petroleum storage facilities in the affected areas. This damage, and the related impact on petroleum

pipeline operations, affects the petroleum distribution system in the affected areas and is projected to prevent the distribution of adequate supplies of RFG throughout the Designated RFG Covered Areas over the next several days.

The EPA, in consultation with the Department of Energy (DOE), has evaluated the impact of fuel supplies as the result of disruptions to the fuel distribution system. Based on this evaluation, the EPA has determined, and DOE concurs, that it is necessary to take the following action to minimize or prevent disruption of the supply of gasoline to these areas.

I have determined that an “extreme and unusual fuel supply circumstance” exists that will prevent the distribution of an adequate supply of gasoline to consumers. CAA § 211(c)(4)(C)(ii)(I), 42 U.S.C. § 7545(c)(4)(C)(ii)(I). This extreme and unusual fuel circumstance is the result of Hurricane Sandy, a natural disaster that could not reasonably have been foreseen or prevented, and is not attributable to a lack of prudent planning on the part of suppliers of the fuel to these areas. CAA § 211(c)(4)(C)(ii)(II), 42 U.S.C. § 7545(c)(4)(C)(ii)(II). Furthermore, I have determined that it is in the public interest to grant this waiver and that this waiver applies to the smallest geographic area necessary to address the fuel supply circumstances. CAA § 211(c)(4)(C)(ii)(III) and (iii)(I), 42 U.S.C. § 7545(c)(4)(C)(ii)(III) and (iii)(I).

Therefore, to minimize or prevent disruptions of the supply of RFG, I am issuing this waiver of the federal RFG requirements in the Designated RFG Covered Areas. Under this waiver, the EPA will allow regulated parties to sell conventional gasoline (CG) in the Designated RFG Covered Areas. In order to prevent fuel supply disruptions, I am also waiving the provisions at 40 C.F.R. § 80.78(a)(7) that prohibit any person from combining any reformulated gasoline blendstock for oxygenate blending with any other gasoline, blendstock, or oxygenate, unless certain conditions are met.¹ This waiver of the prohibitions at 40 C.F.R. § 80.78(a)(7) applies to the Designated RFG Covered Areas and the following states: Mississippi, Alabama, Georgia, Tennessee, South Carolina, and North Carolina.

This waiver is effective immediately and will continue through November 20, 2012. After November 20, 2012, refiners and importers may not produce or import gasoline that does not meet the RFG standards for distribution in the Designated RFG Covered Areas. However, any CG for use in the Designated RFG Covered Areas that is in the distribution system on November 20, 2012, may be distributed and sold until the supply is depleted. CG that is in the possession of parties other than retailers and wholesale purchaser-consumers must meet the RFG requirements by no later than December 20, 2012. Retailers and wholesale purchaser-consumers may continue selling or dispensing CG until their supplies are depleted.

¹ This waiver does not cover the gasoline sulfur requirements in Georgia’s federally approved State Implementation Plan (SIP) that covers the 45-County Atlanta-area market. See 67 Fed. Reg. 8200. Regulated parties must continue to comply with the requirements set forth in this SIP.

The EPA will continue to work with the DOE and affected states to monitor the impact of Hurricane Sandy on the fuel supply situation. Should conditions warrant, this waiver may be modified, terminated or extended, as appropriate.

If you have questions you may call me, or your staff may call Phillip Brooks at (202) 564-0652.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson", with a stylized, flowing script.

Lisa P. Jackson

cc: The Honorable Steven Chu
Secretary of Energy